

ORDINANCE O-4680

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS LICENSES AND REGULATIONS AND AMENDING CHAPTER 7.02 OF THE KIRKLAND MUNICIPAL CODE.

1 The City Council of the City of Kirkland do ordain as follows:  
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3 Section 1. Kirkland Municipal Code Section 7.02.040 is amended  
4 to read as follows:  
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6 **7.02.040 Business license required.**

7 (a) It is unlawful to engage in any business within the city without  
8 first having obtained a business license ("license") from the city and  
9 being the holder of a currently valid license to engage in such business  
10 or activity.

11 (b) If a business is conducted from more than one premises in the  
12 city, a separate registration and license shall be required for each  
13 premises within the city.

14 (c) If more than one business, as indicated with a separate UBI  
15 number, is conducted upon or from a single premises a separate  
16 registration and license shall be required for each separate business  
17 conducted, operated, engaged in or practiced.

18 (d) Persons or companies doing business in Kirkland must comply  
19 with this chapter regardless of the physical location of the business (i.e.,  
20 whether inside or outside Kirkland city limits).

21 (e) Limited Exemption from Multiple License Requirements. A  
22 business which holds a currently valid city of Kirkland general business  
23 license need not obtain an additional business license to conduct  
24 business at a second location so long as the second location is not  
25 rented, leased, subleased or owned by such business. Government  
26 organizations are exempt from the requirement to obtain a business  
27 license for each location.

28  
29 Section 2. Kirkland Municipal Code Section 7.02.060 is amended  
30 to read as follows:  
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32 **7.02.060 No license required in certain circumstances.**

33 (a) Employees. The requirement for a separate business license  
34 shall not apply to a person in respect to the person's employment in the  
35 capacity as an employee, as distinguished from, for example, that of an  
36 independent contractor. For purposes of this section, it shall be  
37 presumed that a person is not an employee of a business unless that  
38 business makes contributions to the State Employment Security  
39 Department on behalf of such person. The fact that the business makes  
40 industrial insurance contributions on behalf of such worker will not rebut  
41 this presumption.

42 (b) Farmers. No license or registration fee will be required for any  
43 farmer, gardener, or other person to sell, deliver, or peddle any fruits,  
44 vegetables, berries, eggs, or any farm produce or edibles raised,  
45 gathered, produced, or manufactured by such person; provided, that

46 | this exemption does not apply to any dairy product, meat, poultry, eel,  
 47 | fish, mollusk, or shellfish (except as otherwise provided with regard to  
 48 | wild-caught salmon and crab under RCW 36.71.090).

49 | (c) Real Estate Agents. For the purposes of this chapter, "real  
 50 | estate agent" means a person who is licensed under Chapter 18.85 RCW  
 51 | and whose license is being retained by a broker licensed as a broker  
 52 | under Chapter 18.85 RCW ("designated broker"). Due to the unique  
 53 | legal controls placed upon the real estate agent/broker relationship, a  
 54 | real estate agent whose license is retained by a designated broker  
 55 | holding a currently valid city of Kirkland business license is not required  
 56 | to have his/her own separate business license if all of the following are  
 57 | true:

58 | (1) The real estate agent engages in no business in Kirkland other  
 59 | than the work with the designated broker; and

60 | (2) The designated broker notifies the city in writing as part of  
 61 | each year's business license renewal of the name of each real estate  
 62 | agent that the city should consider to be the equivalent of an employee  
 63 | of the designated broker for the purposes of this chapter; and

64 | (3) The designated broker includes the real estate agent in  
 65 | counting the number of employees to determine the revenue generating  
 66 | regulatory license fee (RGRL) to be paid for the designated broker's  
 67 | business license and includes the real estate agent's gross receipts in  
 68 | calculating the designated broker's gross receipts for the purposes of  
 69 | this chapter.

70 | (d) If a person, or its employee, agent, representative,  
 71 | independent contractor, broker or another acting on the person's behalf,  
 72 | engages in no other activities in or with the city but the following, it  
 73 | need not register and obtain a business license:

74 | (1) Meeting with suppliers of goods and services as a customer.

75 | (2) Meeting with government representatives in their official  
 76 | capacity, other than those performing contracting or purchasing  
 77 | functions.

78 | (3) Attending meetings, such as board meetings, retreats,  
 79 | seminars, and conferences, or other meetings wherein the person does  
 80 | not provide training in connection with tangible personal property sold  
 81 | by the person or on its behalf. This provision does not apply to any  
 82 | board of director member or attendee engaging in business such as a  
 83 | member of a board of directors who attends a board meeting.

84 | (4) Renting tangible or intangible property as a customer when  
 85 | the property is not used in the city.

86 | (5) Attending, but not participating, in a "trade show" or "multiple  
 87 | vendor events." Persons participating at a trade show shall review the  
 88 | city's trade show or multiple vendor event ordinances.

89 | (6) Conducting advertising through the mail.

90 | (7) Soliciting sales by phone from a location outside the city.

91 | (e) A seller located outside the city merely delivering goods into  
 92 | the city by means of common carrier is not required to register and  
 93 | obtain a business license; provided, that it engages in no other business  
 94 | activities in the city. Such activities do not include those in subsection  
 95 | (d) of this section.

96 | (f) No license is required if a person engages in no activities within  
 97 | the city but the following:

98 | (1) Activities that are within the term and scope of a city special  
 99 | event permit, pursuant to Chapter 19.24, or a community program

100 activity as defined in Section 19.24.010 (e.g., vendors at a temporary  
 101 booth who are included under an entity's special event or community  
 102 program permit, consistent with the term and activity for which the  
 103 permit was issued);

104 (2) Activities that are within the term and scope of a city-operated  
 105 and city-managed parks event that would otherwise be exempt if it was  
 106 conducted pursuant to a special event permit;

107 (3) Attending meetings where the person does not provide  
 108 training for a fee;

109 (4) Sale of one's own residence;

110 (5) Employing a household employee or being a customer of a  
 111 domestic worker (e.g., babysitters, nannies, health aides, maids, or yard  
 112 workers); or

113 (6) Casual and isolated sales.

114 (g) No license or registration fee will be required for any judge or  
 115 court commissioner of the Kirkland municipal court or for any person  
 116 filling a judicial or hearing examiner position for the city of Kirkland.

117 ~~(h) Any person or business whose annual value of products, gross  
 118 proceeds of sales, or gross income of the business in the city is equal to  
 119 or less than twelve thousand dollars and who does not maintain a place  
 120 of business within the city shall be exempt from the general business  
 121 license requirements in this chapter. This exemption does not apply to  
 122 regulatory license requirements or activities that require a specialized  
 123 permit.~~

124

125 Section 3. Kirkland Municipal Code Section 7.02.120 is amended  
 126 to read as follows:

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128 **7.02.120 Basic license fee.**

129 The basic license fee for the annual license issued under this chapter  
 130 shall be as follows:

131 (a) Basic Fee. Each business with twelve thousand dollars or more  
 132 in average annual gross receipts shall pay a basic business license fee  
 133 of one hundred dollars per year.

134 (b) Registration Fee. Any business with less than twelve thousand  
 135 dollars average annual gross receipts shall pay a registration fee of fifty  
 136 dollars per year.

137 (c) Exemptions. The following entities may claim an exemption  
 138 from the basic license fee or registration fee, but if exempt under this  
 139 subsection such entities shall still register under this chapter:

140 (1) Organizations approved to be non-profit by the State of  
 141 Washington, which includes the following: a tax-exempt nonprofit  
 142 corporation described by §501(c)(3), (4), or (10) of the IRC; or a  
 143 nonprofit organization that would qualify for tax exemption under these  
 144 codes except that it is not organized as a nonprofit corporation; or a  
 145 nonprofit organization that does not pay its members, stockholders,  
 146 officers, directors, or trustees any amounts from its gross income,  
 147 except as compensation to any person for services rendered and does  
 148 not engage in a substantial amount of political activity. (RCW  
 149 82.04.3651) Exempt from Federal Income Tax. An organization that files  
 150 with the city a copy of its current IRS 501(c)(3) exemption certificate  
 151 issued by the Internal Revenue Service.

152 (2) A governmental entity that engages solely in the exercise of  
 153 governmental functions. Activities which are not exclusively

154 governmental, such as some of the activities of a hospital or medical  
155 clinic, are not exempt under this chapter.

156 (3) A nonprofit business operated exclusively for a religious  
157 purpose, upon furnishing proof to the finance and administration  
158 department of its nonprofit status. For the purposes of this chapter, the  
159 activities that are not part of the core religious functions are not exempt.

160 (4) Civic groups, service clubs, and social organizations that are  
161 not engaged in any profession, trade, calling, or occupation, but are  
162 organized to provide civic, service, or social activities in the city.  
163 Examples of such organizations may include, but are not limited to:  
164 Soroptomists; Kiwanis; Lions; Rotary; American Legion; children's and  
165 adults' athletic organizations; and similar types of groups, clubs or  
166 organizations.

167 (5) Homeowners Associations that engage solely in the exercise  
168 of functions which are not taxable. Revenues from activities which are  
169 subject to tax and are in excess of \$12,000 are not exempt under this  
170 chapter.

171 (6) Political campaigns.

172 (7) For purposes of the license by this chapter, any person or  
173 business whose annual value of products, gross proceeds of sales, or  
174 gross income of business conducted in the City is equal to or less than  
175 \$2,000 and who does not maintain a place of business within the city.  
176 The threshold does not apply to regulatory license requirements or  
177 activities that require a specialized permit.

178 (8) For purposes of the license by this chapter, any person or  
179 business whose annual value of products, gross proceeds of sales, or  
180 gross income of the business is less than \$12,000 and who maintains a  
181 place of business within the city. The threshold does not apply to  
182 regulatory license requirements or activities that require a specialized  
183 permit.

184 (59) A business that can demonstrate to the satisfaction of the  
185 director that it is exempt due to preemption by state or federal law.  
186

187 Section 4. If any provision of this ordinance or its application to  
188 any person or circumstance is held invalid, the remainder of the  
189 ordinance or the application of the provision to other persons or  
190 circumstances is not affected.

191  
192 Section 5. This ordinance shall be in force and effect seventy-  
193 five days from and after its passage by the Kirkland City Council and  
194 publication pursuant to Section 1.08.017, Kirkland Municipal Code in the  
195 summary form attached to the original of this ordinance and by this  
196 reference approved by the City Council.

197  
198 Passed by majority vote of the Kirkland City Council in open  
199 meeting this 19th day of February, 2019.

200  
201 Signed in authentication thereof this 19th day of February, 2019.

  
Penny Sweet, Mayor

Attest:

  
Kathi Anderson, City Clerk

Approved as to Form:

  
Kevin Raymond, City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4680

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO BUSINESS LICENSES AND REGULATIONS AND AMENDING CHAPTER 7.02 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Adds an exemption for the limited exemption from multiple business license requirements.

SECTION 2. Amends the circumstances when no business license is required.

SECTION 3. Amends the exemptions for the basic business license fee.

SECTION 4. Provides a severability clause for the ordinance.

SECTION 5. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as seventy-five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 19th day of February, 2019.

I certify that the foregoing is a summary of Ordinance O-4680 approved by the Kirkland City Council for summary publication.

  
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Kathi Anderson, City Clerk